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To: Group Ow-Docket@EPA  
cc:  
Subject: Attention Docket ID # OW-2003-0063

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Water Docket  
Environmental Protection Agency,  
Mail Code 4101T, 1200 Pennsylvania Avenue, NW.  
Washington, DC 20460

Attention: Docket ID No. OW-2003-0063.

Eric A. Cotsenmoyer, Director, Lake County Mosquito and Aquatic Plant Management Division Lake County, Florida welcomes the opportunity to submit comments regarding the "Interim Statement and Guidance on Application of Pesticides to Waters of the United States in Compliance with FIFRA" memorandum from G. Tracy Mehan, III (signed and dated, July 11, 2003) and Assistant Administrator for Water (4101) Stephen L. Johnson (signed and dated, July 11, 2003) Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Eric A. Cotsenmoyer, Director, Lake County Mosquito and Aquatic Plant Management Division fully supports the Interim Statement and Guidance document, and urges USEPA to issue a rule codifying its interpretation of Clean Water Act (CWA) provisions as not requiring a National Pollutant Discharge Elimination System (NPDES) permit for application of FIFRA-registered mosquito larvicides, adulticides, and aquatic herbicides in accordance with product labels.

1. As a condition of registration, larvicides and adulticides used in mosquito management operations undergo rigorous and comprehensive testing to determine their toxic properties, impacts on non-targets and environmental fate. They are registered only when the EPA is convinced that usage in accordance with label stipulations does not represent undue risk to non-target organisms and the environment.
2. Mosquito larvicides are specifically formulated to be applied to water in order to produce active ingredient dilutions that will affect mosquito larvae only. Extensive testing mandated by FIFRA and monitored by EPA ensure minimal risk prior to registration

3. Mosquito adulticides designed to be applied to air column above water and drift above water surface droplet mechanics promote drift in order to optimize contact with flying mosquitoes application parameters (meteorology, time of day, etc.) assist in drift and serve to minimize deposition application rates of less than ounce per acre designed to be non-residual, with rapid degradation to minimize amount potentially reaching ground/water applied with buffers from groundwater applied for public health purposes

4. Aquatic herbicides have been specifically designed to be applied directly to water in order to produce active ingredient dilutions to affect various species of invasive exotic aquatic plants. EPA requires much further and extensive testing of aquatic herbicide manufactures to insure no undue risks on non-targets and environmental fate occurs.

5. These products are applied for their intended, legal, beneficial purpose as tools used to perform specialized tasks and do not constitute discharges of waste as envisioned by the CWA NPDES provision.

Eric A. Cotsenmoyer, Director, Lake County Mosquito and Aquatic Plant Management Division also fully supports two further regulatory changes originally recommended by the American Mosquito Control Association (AMCA) that will ensure, eliminate regulatory confusion, and promote ruling consistency with the Code of Federal Regulations and to provide guidance for unnecessary future litigation.

First, the definition of the term “pollutant” set forth at 40C.F.R. § 122.2 should be changed with the addition of a third subsection as follows:

(c) A pesticide product that is registered or otherwise approved under the Federal Insecticide, Fungicide and Rodenticide Act for the purpose of control of mosquito larvae, adults, other vectors, invasive exotic aquatic plants, (as defined by section 2(oo) of that Act) and any other outdoor aquatic pests is used for such purpose in substantial compliance with all provisions of its approved label and labeling that are relevant to protection of waters of the United States.

Second, the definition of the term “discharge of a pollutant” in 40 CFR 122.2 should be changed by adding the following sentence at the end of the definition:

“This term also does not include the application or use of a pesticide product that is registered or otherwise approved under the Federal Insecticide, Fungicide and Rodenticide Act for the purpose of control in the atmosphere of adult mosquitoes or other vectors and the management of invasive exotic aquatic plants in sovereign and non-sovereign waters (as defined by section 2(oo) of that Act) and is used in substantial compliance with all provisions of its approved label and labeling relevant to protection of waters of the United States.”

Thank you for the opportunity to comment on the Interim Statement and Guidance Document, and Lake County Mosquito and Aquatic Plant Management Division

looks forward to the Agency performing a rulemaking to further clarify its position regarding this crucial public health and environment.